



The Attorney General of Texas

December 31, 1982

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Open Records Decision No. 347

Re: Whether bank stock
renditions are excepted from
public disclosure by section
22.27 of the Property Tax Code

Dear Mr. Martin:

On behalf of the city of Seabrook, you have requested our decision under the Open Records Act, article 6252-17a, V.T.C.S., as to whether certain information contained in the appraisal rolls of the city is excepted from disclosure by section 22.27 of the Property Tax Code. Specifically, you have forwarded to us the following three questions which had been submitted to you:

1. Have renditions and/or appraisals been rendered or made respectively for all bank stock of all banks in the city of Seabrook for the purpose of determining value, ownership, and tax ability in the periods for such determinations in 1982? 1981? 1980? 1979?

2. What is the value of all bank stock of all banks in the city of Seabrook as reflected in the Ad Valorem Tax Evaluation Rolls of the city for 1982? 1981? 1980? 1979?

3. In the event all bank stocks of all banks in the city of Seabrook were not rendered and/or appraised and taxed according to value in the years 1981, 1980, and 1979, what recapture of lost taxes is possible?

Obviously, your first question is a factual one having nothing to do with the Open Records Act. Your third question is a legal question which cannot be answered in an Open Records Decision. Cities do not have authority under article 4399, V.T.C.S. We will therefore address only your second question.

Question 2 is in effect a request to examine the ad valorem tax appraisal rolls. Essentially, you wish to know whether certain information contained in the city's appraisal rolls, specifically "the value of all bank stock of all banks in the city of Seabrook as reflected in the Ad Valorem Tax Evaluation Rolls for the City..." for the years 1979 through 1982 inclusive, is excepted from disclosure. We do not understand you to be asking whether the renditions themselves are excepted from disclosure. You claim that the information is excepted from disclosure by subsection 3(a)(1) of the Open Records Act, which excepts "information deemed confidential by law, either Constitutional, statutory, or by judicial decision," and by subsection 3(a)(10) which excepts "trade secrets and commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision." We disagree and hold that the information requested is subject to disclosure.

Section 22.27 of the Property Tax Code provides the following in pertinent part:

(a) Rendition statements and real and personal property reports filed with an appraisal office and information voluntarily disclosed to an appraisal office about real or personal property sales prices after a promise it will be held confidential are confidential and not open to public inspection. The statements and reports and the information they contain about specific real or personal property or a specific real or personal property owner and information voluntarily disclosed to an appraisal office about real or personal property sales prices after a promise it will be held confidential may not be disclosed to anyone other than an employee of the appraisal office who appraises property except as authorized by Subsection (b) of this section.
(Emphasis added).

Your argument runs as follows: because section 22.27 makes rendition statements and real and personal property reports filed with an appraisal office confidential, any records which contain the same identifiable information are themselves rendered confidential thereby. You acknowledge that information contained in the appraisal rolls is not usually excepted from disclosure. You assert, however, that in this instance, when there is only one bank in Seabrook, the disclosure of information tending to reveal the value of all bank stock of that bank would indirectly disclose information which section 22.27 renders confidential. We reject your argument.

First, it is not clear to us that the appraisal records of the city will in fact contain the same identifiable information submitted in the bank's confidential rendition, even if there is only one bank in Seabrook. The bank's rendition for 1982, a copy of which is included in the materials which you have submitted to us, consists of an inventory of property listing the bank's taxable assets and the bank's real property, the Consolidated Report of Condition which the bank is required to file with state and federal officials (the so-called "call statement"), and a list of the bank's shareholders which shows the number of shares of outstanding stock owned by each. The appraisal records, on the other hand, consist of only two lists -- one list for real property and one list for personal property. See State Property Tax Board Rule 237.03.00.004. Banking corporations are appraised by subtracting the market value of the real property owned by the bank from the actual cash value of the bank's stock. Property Tax Code §23.11. Because the appraisal district may determine that the value of the bank's real property, for example, is either greater or less than the amount rendered by the bank, the information contained in the bank's rendition may well not be disclosed by an examination of the appraisal records. Certainly some of the information contained in the bank's rendition will not be disclosed: neither the appraisal records nor the rendition is required to list the bank's shareholders.

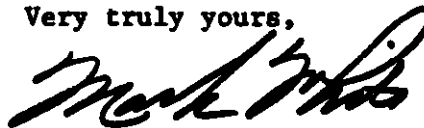
Second, even if we assume, arguendo, that the information contained in the appraisal rolls, at least with respect to value, is identical with that contained in the bank's rendition, section 22.27 of the Property Tax Code would not except such information from disclosure. Subsection (b) of section 22.27 lists six situations in which information made confidential by the section may be disclosed. Subsection (b)(6) permits disclosure "if and to the extent the information is required to be included in a public document or record that the appraisal office is required to prepare or maintain." (Emphasis added). We construe this exception to permit the custodian of appraisal records to disclose information included in a public document or record, such as appraisal records, that the appraisal office is required to prepare or maintain, which information is coincidentally contained in a rendition statement. As we already noted, the appraisal records are required to contain, inter alia, the appraised value of land, of improvements to land, of a separately taxable estate or interest in land, and of personal property, as well as information tending to identify the specific property. See State Property Tax Board Rule 237.03.00.004. See also Property Tax Code §§6.03, 5.07, and 25.02. To the extent, for example, that a rendition statement contains this information, such information may be disclosed. To the extent, however, that a rendition statement contains information which is not required to be included in a public document or record that the appraisal office is required to prepare or

maintain, for example, a list of shareholders of a bank's outstanding stock, such information is confidential under section 22.27.

Clearly, rendition statements are excepted from disclosure under subsection 3(a)(1) of the Open Records Act by virtue of section 22.27 of the Property Tax Code. We can find, however, no law, either constitutional, statutory, or by judicial decision, which serves to except appraisal rolls from public disclosure. Moreover, subsection 22.27(b)(6) expressly permits disclosure of information which, while confidential on a rendition statement, is maintained by the appraisal office by some other means. We therefore conclude that no information contained in the appraisal records is excepted from public disclosure by virtue of subsection 3(a)(1) of the Open Records Act.

Your second contention is that such information is excepted by subsection 3(a)(10) of the Open Records Act which excepts from disclosure "financial information obtained from a person and privileged or confidential by statute or judicial decision." (Emphasis added). We have repeatedly held that the reach of subsection 3(a)(10) is no greater than that afforded by subsection 3(a)(1). See Attorney General Opinion H-250 (1974); Open Records Decision Nos. 233 (1980); 203 (1978). We have found no statute or judicial decision which excepts appraisal records from disclosure, nor have you informed us of one. We therefore conclude that subsection 3(a)(10) does not except appraisal records from disclosure.

Very truly yours,



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